

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ERIC SHIELDS,

Plaintiff,

v.

SUPERINTENDENT MAHAILY,
DEPUTY WARDEN JOHN DOE,
M. GOYNE, C.O. SHEAR, and
C.O. HOPKINS,

Defendants.

No. 4:18-CV-00185

(Judge Brann)

(Magistrate Judge Carlson)

ORDER

FEBRUARY 13, 2019

On January 11, 2019, Magistrate Judge Martin C. Carlson issued a Report and Recommendation¹ recommending that this Court dismiss all claims brought by Eric Shields against Superintendent Mahally, Deputy Warden John Doe, and M.Goyne.² Because Magistrate Judge Carlson previously gave Mr. Shields an opportunity to amend his claims against those defendants,³ and because Mr. Shields failed to do so sufficiently, Magistrate Judge Carlson recommended that the dismissal be with prejudice.

On January 17, 2019, Mr. Shields filed an Objection⁴ to Magistrate Judge Carlson's Report and Recommendation. In that document, Mr. Shields does not dispute

¹ ECF No. 13.

² ECF No. 9.

³ ECF No. 8.

⁴ ECF No. 14.

Magistrate Judge Carlson's conclusion vis-à-vis the sufficiency of the allegations against the three defendants in question,⁵ but instead argues that he should be given another opportunity to amend his claims against those defendants.⁶ This Court disagrees, finding that another bite at the proverbial apple would be both inequitable and futile.⁷

Therefore, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson's Report and Recommendation, ECF No. 13, is **ADOPTED IN ITS ENTIRETY**.
2. All claims in Plaintiff's Amended Complaint, ECF No. 9, against Superintendent Mahaily, Deputy Warden John Doe, and M. Goyne, are **DISMISSED WITH PREJUDICE**.
3. Plaintiff's Motion to Amend/Correct, ECF No.15, is **DENIED**.
4. This case is remanded back to Magistrate Judge Carlson.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

⁵ The Court agrees with Magistrate Judge Carlson's conclusion that those allegations are insufficient to state a claim upon which relief can be granted.

⁶ Mr. Shields contemporaneously filed a Motion to Amend/Correct Complaint. ECF No. 15. This document is identical to his Objection.

⁷ See *Phillips v. County of Allegheny*, 515 F.3d 224, 236 (3rd Cir. 2008); see also *Alston v. Parker*, 363 F.3d 229, 234 n.7 ("[D]ismissals with prejudice may be appropriate where . . . the repleading does not remedy the Rule 8 violation.").